United Nations CRPD/C/NZL/Q/1

Convention on the Rights of Persons with Disabilities

Distr.: General
12 May 2014

Original: English

Committee on the Rights of Persons with Disabilities

List of issues in relation to the initial report of New Zealand*

A. Purpose and general obligations (arts. 1–4)

Purpose (art. 1)

1. Please inform the Committee whether the State party will ratify the Optional Protocol as recommended in the 2011–2012 annual report of the Independent Monitoring Mechanism of the Convention on the Rights of Persons with Disabilities.

2. Since April 2001, the Disability Strategy has been in place in New Zealand. Please update the Committee on the strategy.

Definitions (art. 2)

3. In the State party's initial report (CRPD/C/NZL/1), it is stated that "boys make up 59 per cent of disabled children, reflecting higher rates of some disabling medical conditions". Please give further details on those medical conditions.

General obligations (art. 4)

4. Please provide information on plans to promote and monitor the engagement principles and engagement model developed by the State party and disabled persons' organizations to ensure disabled people, through their representative organizations, can meaningfully participate in decisions that affect them.

B. Specific rights

Equality and non-discrimination (art. 5)

5. Please give up-to-date statistics, disaggregated by sex, on the numbers of cases brought by persons with disabilities alleging discrimination in employment; in the provision of accommodation; and in the provision of goods and services. Please specify the percentage of claims that were successful, and the remedies granted, and the percentage of claims which were settled, disaggregated by sex.

* Adopted by the pre-sessional working group at its first session (14–17 April 2014).

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6. Please provide information on plans to reconsider the New Zealand Public Health and Disability Amendment Act 2013 and to repeal those sections that limit further legal action and limit the circumstances in which family members can be paid and the categories of family members that can be paid.

7. With regard to the decision of the New Zealand Court of Appeal in *Smith* v. *Air New Zealand Ltd* [2011] NZCA 20, could the State party please inform the Committee whether the State party has considered amending section 52 of the Human Rights Act 1993 to clarify that the language "cannot reasonably be expected" conforms to the definition of "reasonable accommodation" in article 2 of the Convention.

Women with disabilities (art. 6)

8. Please update the Committee on any programmes designed to support women with disabilities in employment, in combating violence and in other aspects of life.

Children with disabilities (art. 7)

9. Please give details on measures taken to assist children with disabilities to access government, medical and social welfare services.

Accessibility (art. 9)

10. Please explain whether the provisions concerning accessibility in the Building Act 2004 and the Building Code apply to new public buildings and private buildings. Will the Building Act and Code operate to guarantee accessibility when public and private buildings are renovated?

11. Please provide information on plans to raise compliance with New Zealand Government Web Standards, and to extend the scope of mandatory compliance with those standards to crown entities, including District Health Boards, local authorities and schools.

Situations of risk and humanitarian emergencies (art. 11)

12. Please update the Committee on the State party's disaster response and recovery plans and procedures developed since the Canterbury earthquake disaster. Please inform the Committee of recent measures to consult and protect persons with disabilities.

Equal recognition before the law (art. 12)

13. The Protection of Personal and Property Rights Act 1988 establishes a system of guardianship with a regime of substituted decision-making where the threshold for intervention is high. Please explain whether initiatives are being taken to replace substituted decision-making with regimes of supported decision-making, in conformity with article 12 of the Convention.

Access to justice (art. 13)

14. Please explain whether New Zealand law provides access to justice for persons with disabilities engaged in the statutory dispute resolution process, with regard to adequate funding, procedural fairness and reliable evidentiary procedures under the New Zealand Accident Compensation scheme.

15. Under the Juries Act 1981, persons with disabilities may serve on juries; however, a judge may discharge a juror with disabilities. In practice, have blind or deaf New Zealand citizens served on juries? Please give details on the exercise of the judicial discretion to discharge potential jurors with disabilities.

16. Please update the Committee on the results of the 2011 review of the New Zealand Sign Language Act 2006. Please inform the Committee whether measures have been taken to ensure that deaf persons who are charged with offences are given appropriate interpreter assistance in court and in obtaining legal assistance.

Liberty and security of the person (art. 14)

17. Please update the Committee on the number of persons detained under the Mental Health (Compulsory Assessment and Treatment) Act 1992 and under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.

18. Please give updated information on the use of seclusion orders and the establishment of measures to replace seclusion in the treatment of patients.

Freedom from violence and abuse (art. 16)

19. Please inform the Committee of the State party's response to recommendation 17 in the 2011–2012 annual report of the national monitoring body.

20. Please give details on the number of sterilizations of women and girls with intellectual disabilities carried out without their full and free consent via a court order. Is the State party intending to end that practice?

Living independently and being included in the community (art. 19)

21. Please give updated information on the implementation of the independent living model and the Enabling Good Lives project.

Respect for home and the family (art. 23)

22. Please inform the Committee whether the State party is willing to review section 8 of the Adoption Act, to allow persons with disabilities to adopt children on an equal basis with others.

Education (art. 24)

23. The rate of tertiary study by persons with disabilities is very low. Please give details on measures being taken to increase the level of tertiary education by persons with disabilities.

24. Bullying of children with disabilities is an issue in some New Zealand Schools. Please give updated information on measures taken to stamp out bullying.

25. In its concluding observations (CRC/C/NZL/CO/3-4, 2011) the Committee on the Rights of the Child noted that "only 20 hours of free early childhood education and care are available and that there is limited access for many children, especially those in need". Please update the Committee on the early childhood intervention and education given to children with disabilities.

Health (art. 25)

26. Please give details on the measures being taken by the State party to improve access to health facilities and services for persons with disabilities, especially persons with intellectual disabilities, including access to sexual and reproductive health services for women and girls with disabilities.

27. Please give details on the measures being taken to provide health services to Maori and to Pacific island people.

Work and employment (art. 27)

28. Please update the Committee on further measures by the State party to increase the levels of employment of persons with disabilities, including Maori and Pacific island people with disabilities, since the publication of the initial report.

Participation in political and public life (art. 29)

29. In the initial report, it is stated that "all people under compulsory care or treatment are entitled to vote unless they have committed criminal offences and have been detained for three years or longer". However, it appears that, under section 80 of the Electoral Act 1993, read together with related statutes, some New Zealanders with psychosocial disabilities but without any criminal convictions may still be excluded from voting if they are in a rehabilitation institution or if they are a former patient. Please give details on the circumstances in which persons with intellectual and/or psychosocial disabilities are not permitted to vote, for reasons other than conviction or imprisonment.

Participation in cultural life, recreation, leisure and sport (art. 30)

30. Please provide information on any plans to increase the accessibility of television, DVDs, movies and online media, including plans to ensure the progressive increase in the percentage of captioning and audio description provided.

31. Please indicate any measures taken for the expeditious signing and ratification of the recently adopted Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which allows access to published material to blind persons, persons with visual impairments or persons with other difficulties in having access to printed materials; and about measures to ensure its effective implementation.

United Nations CRPD/C/NZL/Q/1/Add.1

Convention on the Rights of Persons with Disabilities

Distr.: General
27 June 2014

Original: English

Committee on the Rights of Persons with Disabilities
Twelfth session
15 September-3 October 2014
Item 5 of the provisional agenda
Consideration of reports submitted by States parties under article 35 of the Convention

List of issues in relation to the initial report of New Zealand

Addendum

Replies of New Zealand to the list of issues*

[Date received: 20 June 2014]

A. Purpose and general obligations (arts. 1-4)

Purpose (art. 1)

Reply to the issues raised in paragraph 1 of the list of issues (CRPD/C/NZL/Q/1)

1. New Zealand has begun the domestic treaty examination process with a view to acceding to the Optional Protocol to the Convention on the Rights of Persons with Disabilities (The Convention)

Reply to the issues raised in paragraph 2 of the list of issues

2. The New Zealand Disability Strategy was developed in consultation with the disability sector. It has 15 outcome-based objectives to indicate areas where action is needed. The Minister for Disability Issues has reported to Parliament annually on progress with implementing the New Zealand Disability Strategy.

3. The Office for Disability Issues promotes and coordinates implementation of the New Zealand Disability Strategy by government agencies, as well as monitoring progress. Since 2009, the Office for Disability Issues has advised the Ministerial Committee on Disability Issues on priorities for implementation within the New Zealand Disability

* The present document is being issued without formal editing.

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Strategy framework. Annual reporting has reflected these priorities that are set out in the Disability Action Plan.

4. In 2013/2014, the Disability Action Plan was developed in collaboration with Disabled People's Organisations. The new plan focuses on four shared result areas and priorities for action, which will be implemented by government agencies and Disabled People's Organisations working together.

5. In 2015, the Office for Disability Issues will work with Disabled People's Organisations and government agencies to update the New Zealand Disability Strategy. This process will reflect the New Zealand Disability Strategy's role in contextualising implementation of the Convention on the Rights of Persons with Disabilities in a New Zealand setting.

Definitions (art. 2)

Reply to the issues raised in paragraph 3 of the list of issues

6. In the New Zealand Disability Survey 2006, medical conditions are classified under chronic health problems and include severe asthma, long-term lung condition or disease, diabetes, long-term heart condition or disease, kidney condition or disease, cancer, epilepsy, cerebral palsy, muscular dystrophy, spina bifida, chronic gastro-intestinal disease, growth failure/failure to thrive, autism or Asperger's syndrome. The medical conditions listed all impact boys more than girls.

General obligations (art. 4)

Reply to the issues raised in paragraph 4 of the list of issues

7. Since ratification, New Zealand has been exploring how to implement the obligation in article 4, paragraph 3 to work closely with Disabled People's Organisations. There had been a history of consulting with the disability sector in the development of significant disability issues, for example the New Zealand Disability Strategy, the Convention negotiations, the New Zealand Sign Language Act 2006, and more recently the Enabling Good Lives approach to transforming the disability support system

8. Initial priority was given to designating and funding Disabled People's Organisations to participate as an equal partner in the independent monitoring mechanism under article 33. In 2010, the independent monitoring mechanism comprising the Human Rights Commission, the Office of the Ombudsman, and the Convention Coalition Monitoring Group of Disabled People's Organisations was established and funding provided over three years. In 2013, the Government increased funding for the Convention Coalition Monitoring Group.

9. Starting from 2011, the independent monitoring mechanism has met annually with the Ministerial Committee on Disability Issues to review progress and priorities with the Convention implementation. The Ministerial Committee, comprising Ministers from relevant disability-related portfolios, provides coordination and leadership across government on implementing the Convention consistent with article 33. The Ministerial Committee is supported at an official level by the Chief Executives' Group on Disability Issues.

10. In July 2013, the Chief Executives' Group met for the first time with the independent monitors. The Chief Executives' Group agreed to take a more inclusive and collaborative approach to developing a new Disability Action Plan, and they directed

government agencies to develop the plan in partnership with Disabled People's Organisations from the start. This direction reflected an interest by the Chief Executives' Group in:

- Ensuring that disabled people's lived experience can inform and enrich Government priority setting;
- Advancing New Zealand's implementation of the Convention, particularly the obligation in article 4, paragraph 3.

11. In August 2013, the Chief Executives' Group agreed to principles to underpin government agencies' engagement with Disabled People's Organisations and ensure consistency with the Convention's article 4, paragraph 3. These principles were developed in collaboration with Disabled People's Organisations:

- Government will engage with Disabled People's Organisations as representatives of disabled people;
- We involve the right people, at the right time, in the right work;
- We value the contribution of each party and make it easy to engage;
- We will be open, honest, transparent and creative in our engagement with each other;
- We jointly learn about how to engage with each other.

12. In March 2014, the Ministerial Committee agreed that the new Disability Action Plan will be implemented in collaboration between its Chief Executives' Group and Disabled People's Organisations. This includes quarterly governance meeting between the Chief Executives' Group and Disabled People's Organisations to review progress against the Disability Action Plan, as well as an opportunity to discuss the working relationship more broadly. The first quarterly governance meeting was held in June 2014.

13. In addition, working groups will be established comprising representatives of government agencies, and Disabled People's Organisations and other organisations based on their expertise. These groups will meet at least quarterly to:

- Coordinate the scoping of new actions;
- Maintain relationships between government agencies, and Disabled People's Organisations, and other stakeholders that are relevant to each shared result area;
- Build a shared understanding amongst all involved;
- Allow for discussion of emerging issues;
- Provide a space for considering new or different actions.

14. From June 2014, the Office for Disability Issues will be supporting the Chief Executives' Group to progressively embed the principles of engagement consistent with article 4, paragraph 3 across government agencies, in collaboration with Disabled People's Organisations.

B. Specific rights

Equality and non-discrimination (art.5)

Reply to the issues raised in paragraph 5 of the list of issues

15. For the period 1 July 2013 to 30 May 2014 (11 months), there were 322 complaints of alleged unlawful discrimination on the grounds of disability.

- 76 of these were in the area of employment;
- 62 in the area of provision of goods and services;
- 11 in the area of provision of land, housing and accommodation.

16. For the disability complaints in employment 68 were closed within the period and 8 remain open. 26 disability employment complaints were affected males; 43 about females; 7 unknown or not applicable.

17. 52 complaints were closed recording that the matter had been resolved, partly resolved, assistance was provided or some other action taken which enabled self-resolution. 16 complaints were either not resolved or no further action was taken (complainant or respondent didn't respond).

18. Most common "remedies" were an explanation of the Human Rights Act, facilitation of self-help and the provision of information. In three cases, mediation resulted in an amendment of policy or change in practice. Other remedies included compensation or an apology.

19. For the disability complaints in the provision of goods and services, 53 were closed within the period, 9 remain open. 23 disability goods and services complaints affected males; 26 about females; 3 unknown or not applicable. 39 of the 62 complaints were closed recording that the matter had been resolved, partly resolved, assistance was provided or some other action taken which enabled self-resolution. 14 complaints were either not resolved or no further action was taken (complainant or respondent didn't respond).

20. Most common "remedies" were an explanation of the Human Rights Act, facilitation of self-help and the provision of information. In one case, mediation resulted in an amendment of policy or change in practice, in four cases access to the service was provided or enabled, other remedies were compensation and apology.

21. For the disability complaints in the provision of land, housing and accommodation, 11, 10 were closed within the period, 1 remains open. 8 disability "accommodation" complaints affected males; 3 about females. 8 of the 11 complaints were closed recording that the matter had been resolved, partly resolved, assistance was provided or some other action taken which enabled self-resolution. 2 complaints were either not resolved or no further action was taken (complainant or respondent didn't respond).

22. Please note that gender is collected about the person affected, i.e. not the person bringing the complaint.

Reply to the issues raised in paragraph 6 of the list of issues

23. The Government's view is that government funding of family carers should continue to be consistent with the provisions of the recently amended Part 4(A) of the New Zealand Public Health and Disability Amendment Act 2013 and the Ministry of Health's Funded Family Care Policy.

24. The New Zealand Government is not considering amending section 52 of the Human Rights Act 1993. In Smith v Air New Zealand Ltd [2011] NZCA 20, the Court of Appeal considered the definition of "reasonable accommodation" in article 2 of the Convention and interpreted section 52 consistently with that definition. The Court found that, although there is no explicit definition of "reasonable accommodation" in the Act, the Act does apply the concept of "reasonable accommodation" in specific contexts. Once discrimination has been established, the defendant must show it would be unreasonable to require the defendant to provide the goods or services on the same terms and conditions.

Women with disabilities (art. 6)

Reply to the issues raised in paragraph 8 of the list of issues

Ministry of Social Development

25. From the July 2010 to June 2014 the It's not OK and Think Differently teams have funded six projects specifically designed to address violence (including family violence) toward disabled people. The project by the Women's Self-Defence Network- Wahine Toa Incorporated was specifically focussed on disabled women. The others were more broadly targeted to disabled children, women and men. Funding for these projects total $216,710.

26. It's not OK has funded many more community projects aimed at reducing family violence for all, including for disabled people.

27. The Ministry of Youth Development (MYD) does not provide funding targeted specifically for women with disabilities. It has provided small one-off grant funding to support a variety of projects that may have had young women with disabilities participating on them.

28. Since the July 2010 MYD provided one-off funding to IHC totalling $52,460 for four projects. These projects included the production of a DVD to raise awareness on physical and intellectual disabilities, delivering an 'Active Youth Voices' project to encourage young people with disabilities that are transitioning from school to speak up for themselves and their needs and a leadership course.

29. In the 2013/2014 financial year MYD provided one-off funding of $8,000 to Girl Guiding NZ for the 'Voice against Violence' project. This project is a non-formal education curriculum to support girls, young women, boys and young men to; identify different forms of violence; understand their rights; gain the skills in advocacy and leadership to claim these rights and end violence against girls.

Ministry of Justice

30. The Ministry of Justice does not fund separate Domestic Violence protected persons programmes specifically to support women with disabilities. Service providers are expected to deliver programmes in a way that is responsive to the needs of the individual. Currently adult protected persons programmes are generally run as group programmes but can be delivered as an individual programme where this is the most appropriate way to support the individual. This includes where the protected person has special needs.

31. The new safety programmes being introduced under the Domestic Violence Amendment Act will to be provided in a way that supports a woman with disabilities to access a programme and to address her safety needs.

Te Puni Kōkiri (the Ministry of Maori Affairs)

32. Te Puni Kōkiri assisted Te Roopu Waiora to support ten Whānau (family) with Disabilities to develop their Whānau with Disabilities, Whānau Plan. Te Roopu Waiora was also funded to support the development of a training programme titled *Pae Huarahi*. The programme was aimed to up- skill, inform and support any frontline staff when they encounter whānau with any form of disability. The programme has been developed but has not yet been implemented.

33. Funding has also been provided for two Whānau Ora champions who have a community network role and a part focus on whānau with disabilities. There has also been a series of resources provided identify in the relationship between whanau, disability and Whanau Ora Research (whanauoraresearch.co.nz). The publications are identified as being

able to help researchers understand the needs and aspirations of disabled Maori and their whanau.

New Zealand Police

34. The New Zealand Police run two programmes aimed at increasing people's safety. The *Keeping* Ourselves *Safe* programme, which can be tailor-made to its audience and the *Loves Me Not* Programme, focuses on young people and healthy relationships in particular.

35. These programmes do not focus on women with disabilities in particular, but they can assist women with disabilities by giving them ways to keep safe and recognise unhealthy relationships that may lead to violence.

Children with disabilities (art. 7)

Reply to the issues raised in paragraph 9 of the list of issues

36. There are a number of measures that the New Zealand Government undertakes to ensure children with disabilities are able to access various government, medical and social welfare services. These include, but are not limited to:

Whanau Ora

37. Whanau Ora an inclusive interagency approach to providing health and social support to build the capacity of families. The approach empowers whanau as a whole, rather than focusing separately on individual family members. It also draws on whanau strengths rather than targeting problems.

Educational resources for the deaf and hearing impaired

38. In May 2014, the e-book Hairy Maclary was launched during New Zealand Sign Language (NZSL) Week. The new e-book is a translation of the much-loved story of Hairy Maclary into New Zealand Sign Language (NZSL) and was developed by the Ministry of Education in collaboration with Deaf Aotearoa. It is the first digital resource of its kind.

School Based Health Services

39. Children with disabilities that attend decile 1-3 secondary schools will have access to School Based Health Services, which aim to improve students' access to a range of health services. The service was rolled out to decile 1 and 2 secondary schools, alternative education facilities and teen parent units in 2009 and expanded to include decile 3 secondary schools from 2013.

Behaviour Support Services

40. In 2014, a single provider of Behaviour Support Services was announced, in order to make high quality Behaviour Support Services more accessible and consistently available through the country. The transition to a single provider will take place over 12 months.

Gateway Assessments

41. Gateway Assessments were rolled out nationwide in 2011, with a $15.3 million investment over four years. Every child or young person entering state care (around 2,200 per year) receives an assessment involving their social worker, health care professionals and education providers. Referrals are then made to health and education services to address any needs identified.

Vocational support services to school leavers

42. In Budget 2014, new operating funding of $6 million over four years was allocated to provide vocational support services to school leavers with disabilities who are entering the Very High Needs Scheme. Those in the Very High Needs Scheme are likely to have a significant level of physical, intellectual or sensory impairments - or a combination of these - and have significant difficulties with learning, hearing, vision, mobility, language and communication. This new funding will help them to transition from school to adult life.

Wrap-around Intensive Individualised Support

43. The Wrap-around Intensive service has been available in Auckland since 2009 and a national rollout commenced in June 2013. It provides a seamless package of tailored services delivered through a single provider to high needs children and youth with disabilities, and their families/whānau, to prevent family breakdown and the consequent need for residential care for those children and young people. It provides a range of community and home-based services specifically targeted to the needs of the child/youth and his or her family/whānau, and will be responsive to their changing needs.

Better Public Services

44. In March 2012, the Better Public Services programme was launched to get public services working to deliver better results and improved services for New Zealanders. One of the five result areas is Supporting Vulnerable Children, which sees the following four results being measured: increasing participation in early childhood education, increasing infant immunisation rates, reducing rheumatic fever and reducing assaults on children.

Vulnerable Children

45. Since the release of the White Paper for Vulnerable Children in October 2012, the Government has undertaken a programme of work focused on improving the lives of vulnerable children. For the purposes of this work, vulnerable children are those at risk of entering) care, entering care or in care as well as those who sit just below the threshold for CYF involvement. Children with disabilities are over-represented in this group as they are three to four times more likely to be abused or neglected than their typically developing peers. Child protection and improving cross-agency collaboration have been emphasised in this work, which includes:

The Vulnerable Children's Bill

46. In September 2013, the Vulnerable Children Bill (VCB) passed its first reading in Parliament. It is anticipated that the Bill will be passed by July 2014. The aims of the Vulnerable Children's Bill are to protect children from abuse and neglect, and enhance the response to children who have already been abused or neglected. The aims of the Vulnerable Children's Bill are consistent with advancing the rights of disabled children, including the protection of people with disabilities from exploitation, violence and abuse.

47. The Ministries of Social Development and Health are together scoping the work required to fully consider what, if any, changes are needed to future legislation, policy and practice to ensure that they operate in the best interests of children with disabilities whose parents are no longer able to care for them at home. This work is included in the cross-government Disability Action Plan approved by the Ministerial Committee on Disability Issues in early April 2014, for completion by 2016. Progressing this work as an initiative within the Disability Action Plan will enable oversight by relevant Ministers and government agencies through existing governance mechanisms, and provides an established forum for engaging with disabled people's organisations in this work.

Children's Teams

48. The first two Children's Teams were established in 2013, with eight more sites planned for 2014. By 2017 Children's Teams will be operating in regions throughout New Zealand. Children's Teams bring together professionals from health, education, welfare and social service agencies to work with children, and their families. Each child identified as 'vulnerable' will have their own plan, which will set out the things they need, and who will be responsible for delivering the services. The Children's Team then makes sure the child and their family receive the right support, protection and care.

Free doctors' visits and prescriptions

49. For some years, the Government has had a policy of free General Practioner (GP) visits and prescriptions for children aged under six, including after hour visits. Of the 1029 GP practices in the country, 1004 practices have opted into the free under sixes scheme and 98 percent of children under six can go to the doctor for free. From July 2015 the scheme will be extended to all children aged under 13.

Access to schools

50. Under the Education Act 1989, "people who have special educational needs (whether because of disability or otherwise) have the same rights to enrol and receive education at State schools as people who do not." The Government invests $530 million annually to support children and young people with special education needs (including those with disabilities) to be present, participating, and achieving at school.

51. Children with disabilities have Individual Education Plans (IEPs), that detail the support and services needed for the child to attend school. High needs support services include the Ongoing Resourcing Scheme, School High Health Needs Fund, Communication Services, and Behaviour/Intensive Wraparound Services.

52. The Ministry's approach to special education is guided by the Positive Behaviour for Learning Programme and Success for All: Every School, Every Child. The Success for All Action Plan details measures taking place to make sure schools are inclusive, while PB4L is aimed at creating safe and positive school environments for all students.

Accessibility (art. 9)

Reply to the issues raised in paragraph 10 of the list of issues

53. The provisions for accessibility in the Building Act 2004 and Building Code (the Code) apply to all buildings other than private housing and small factories and industrial premises where fewer than 10 people are employed. The Building Act 2004 requires access in an existing building to be upgraded to current Code requirements "as nearly as is reasonably practicable" whenever a building consent for alterations to a building is applied for. The decision on the extent of upgrading is made by the local authority issuing the building consent and will balance the potential advantages for disabled people against the sacrifices the building owner would need to make, which can include cost. Most buildings are upgraded to some extent as part of the building consent issued for alterations but they may not comply fully with the Code.

54. In December 2013 the Minister for Disability Issues and the Minister of Building and Construction announced a review into building access for disabled people which is due to report back by the end of June 2014. The review will address how the Building Act and Building Code provisions relating to access for disabled people are being implemented

when buildings are first constructed or altered. The views of disabled people are being represented in the review alongside government agencies and others with expertise.

Reply to the issues raised in paragraph 11 of the list of issues

55. Since 2011, a number of activities have taken place with respect to the New Zealand Government Web Standards.

56. Between December 2012 and February 2013, a targeted consultation was held regarding the Web Standards. A discussion document was distributed to government agencies, as well as 35 individuals and organisations representing disability interests, and 63 vendors in web design/development.

57. To assist in the analysis of responses to the consultation and subsequent revisions to the Web Standards, the New Zealand Government Web Standards Working Group was rekindled in December 2012. The Working Group comprises representatives from disability communities and a number of central government agencies, and works to help improve the accessibility and Web Standards compliance of Government's online information and services by delivering guidance and workshops.

58. In response to the submissions to the 2012/13 consultation, the Web Standards were updated and now comprise two separate standards, launched in July 2013:

- A Web Accessibility Standard that focuses on web accessibility issues; and
- A Web Usability Standard that focuses on the usability of websites across the State sector. This second Standard contains requirements for certain types of content such as contact information, copyright, privacy, links to non-web documents, and printable web pages.

59. The Web Accessibility Standard in particular adopts a four-year phased implementation plan, as well as a number of temporary provisions to the international W3C (World Wide Web Consortium) accessibility guidelines. The implementation schedule and temporary provisions, to be reviewed annually, acknowledge agencies' various resource constraints and are designed to make implementing accessibility more practicable and cost-effective, without diminishing the accessibility of online resources in any significant way.

60. The Web Standards are mandatory for public service and non-public service departments in the state services. Those departments have been asked to self-assess their compliance with the Web Standards over a two month period beginning in July 2014. The aim of the self-assessments is to report on progress after one year, and set a baseline for continual improvement over time.

Situations of risk and humanitarian emergencies (art. 11)

Reply to the issues raised in paragraph 12 of the list of issues

61. Following the Canterbury earthquakes, a number of reviews and activities have been, and continue to be, carried out to strengthen disaster response and recovery planning in New Zealand. Significant reviews and inquiries have included the:

- Review of the Civil Defence Emergency Management Response to the 22 February Christchurch Earthquake;
- Review of Emergency Welfare Arrangements;
- Canterbury Earthquakes Royal Commission, to examine issues around the built environment;

- Review of the Legislative Framework for Recovery, with the aim of developing a stronger framework for recovery under the Civil Defence Emergency Management Act.

62. The findings of these reviews and inquiries are being addressed by a number of government agencies and have resulted in amendments to existing, or the development of new, arrangements. These changes to arrangements have been incorporated into the revised National Civil Defence Emergency Management Plan, which sets out the hazards and risks to be managed at the national level and the civil defence emergency management necessary to manage those hazards and risks across the 4Rs (risk reduction, readiness, response, and recovery).

63. In addition to the advancements in general national civil defence emergency management arrangements, there has been a particular focus on strengthening arrangements for persons with disabilities during emergencies following the experiences in Canterbury. A number of activities have been carried out, including:

- A symposium in Christchurch on Disability-Inclusive Emergency Preparedness and Response: Learning from the Canterbury Earthquakes;
- The provision of guidance information for the civil defence emergency management sector on including people with disabilities.

64. The Disability-Inclusive Emergency Preparedness and Response Symposium was held on 28 and 29 May 2012 and was attended by over 150 people including emergency management practitioners, disabled people and their families, health and disability providers, and Disabled Persons Organisations. The purpose of the symposium was to learn from experiences and identify ways to increase disability-inclusive emergency preparedness and responsiveness in New Zealand

65. Following the symposium, the Director of the Ministry of Civil Defence and Emergency Management, committed to the provision of guidance on disability inclusive emergency management for the civil defence emergency management sector. This resulted in the development of *Including people with disabilities: Information for the Civil Defence and Emergency Management sector* a publication which sets out:

- The importance of meeting the requirements of people with disabilities when carrying out civil defence emergency management;
- The requirement for civil defence emergency management personnel to ensure that all planning, response and recovery arrangements accommodate people with disabilities;
- How information regarding people with disabilities is to be included in all relevant guidelines going forward.

66. Another initiative following the Canterbury earthquakes that has been developed in consultation with, and to further protect the rights of, persons with disabilities, is the Disability Assist Dog Identification Tag project. This initiative provides easier recognition of, and access for, Disability Assist Dogs in an emergency and supports rapid reunification of the dog and owner/handler if they become separated. The Ministry of Civil Defence and Emergency Management has partnered with the Disability Assist Dog certifying organisations, other non-government and government organisations to develop the identification tag.

67. Further work is planned by the Ministry of Civil Defence and Emergency Management to consider and develop relevant guidance on disability inclusive emergency management planning, to facilitate the implementation of that guidance by Civil Defence Emergency Management Groups, and to support to the Disability Assist Dog Identification

Tag project over coming years. This work will further enhance arrangements to better protect persons with disabilities from the impacts of emergencies in future.

Equal recognition before the law (art. 12)

Reply to the issues raised in paragraph 13 of the list of issues

68. The Protection of Personal and Property Rights Act 1988 requires that the person concerned is presumed to have capacity to make decisions until it is proven otherwise. The Act requires the Court to make the least restrictive intervention possible in the person's life and to enable or encourage the person to exercise and develop his or her capacity to the greatest extent possible. The Court can make a range of orders. If welfare guardians or property managers are appointed, they are required to consult the person and at all times seek to encourage them to develop and exercise their capacity to make and communicate decisions.

69. The Office for Disability Issues is leading work on ensuring disabled people can exercise their legal capacity, including through recognition of supported decision making. This work is one of the prioritised actions in the Disability Action Plan 2014-2018. This work will be scoped, developed and implemented in collaboration with Disabled People's Organisations and disability sector experts. This will include promoting a wider understanding of legal capacity consistent with article 12, examining the use of supported decision making regimes, and ensuring that policies support it in practice. Supported decision making is relatively new in New Zealand, and we will need to consider how our unique cultural and social context can be reflected in its recognition. The work will also seek to understand experiences in other countries and learn from current experience domestically.

Access to justice (art. 13)

Reply to the issues raised in paragraph 14 of the list of issues

70. The accident compensation scheme is delivered by the Accident Compensation Corporation (ACC) and provides comprehensive, no-fault personal injury cover for everyone in New Zealand, including overseas visitors. Individuals forego the right to sue for compensatory damages following injury, in return for receiving personal injury cover.

71. Dispute resolution is provided for under the statutory framework (part 5 of the Accident Compensation Act 2001) and this provides access for all people who wish to apply for a review of a decision made by ACC, including persons with disabilities.

72. When a review application is received by ACC, it is forwarded to the ACC unit that made the disputed decision for an internal review. ACC considers whether the decision issued was appropriate, including whether new information needs to be considered. If the dispute is not resolved, the unit will forward the application to an independent external organisation for a review. That organisation will determine, with the applicant, whether an alternative dispute resolution method such as mediation or facilitation is appropriate or whether an independent review hearing conducted by a reviewer should be held.

Funding

73. There is no charge to a client in applying for a review or any other alternative dispute resolution process,. These costs are met by ACC. In addition, clients who have disputes heard at review are usually awarded costs for example, to assist with the costs of advocates or support persons. Regulations set out the prescribed maximum amounts for

costs and expenses on review. (the Injury Prevention, Rehabilitation and Compensation (Review Costs and Appeals) Regulations 2002) In summary, costs can be awarded for case preparation, reports, and other expenses incurred, including transport. Legal aid is also available in some cases.

74. The reviewer must award costs and expenses to the applicant if the review decision is fully or partly in favour of the applicant, and may award costs and expenses if the reviewer considers the applicant acted reasonably in bringing the review.

Procedural fairness

75. The Accident Compensation Act 2001 (the AC Act) sets out general principles for the conduct of the reviewer. The reviewer must:

- Act independently and disclose previous involvement;
- Comply with the Accident Compensation Act 2001;
- Comply with the principles of natural justice;
- Exercise due diligence in decision-making;
- Adopt an investigative approach while conducting the review in an informal, timely, and practical manner.

76. In making a decision, the reviewer must look at the matter afresh based on the information provided at the review, setting aside ACC policy and procedures, and decide the matter only on the basis of its substantive merits under the Accident Compensation Act 2001.

77. An applicant who is dissatisfied with the outcome of the review can appeal the decision to the District Court. Questions of law can be appealed to the High Court and then to the Court of Appeal.

Evidence

78. Each of the parties to the dispute can provide evidence to support their position, including evidence that was not available at the time the ACC decision was made. The reviewer can request additional information to assist their decision-making at ACC's cost for example, an additional medical opinion.

Accident Compensation Appeal Tribunal

79. In April 2014, the New Zealand Government considered legislative changes to enhance courts and tribunals, including replacing the District Court jurisdiction for ACC appeals with a new Accident Compensation Appeal Tribunal. The new Tribunal would provide quicker decisions while still maintaining a fair process. The proposed Tribunal is intended to be accessible, efficient and affordable for all users, including disabled persons. The proposed introduction of a Chair to oversee and lead the Tribunal's operation is designed to ensure consistent, fair and quality decision making processes.

Reply to the issues raised in paragraph 15 of the list of issues

80. The Ministry of Justice does not retain or collect information on the disabilities or conditions, physical or otherwise of individuals that serve on juries. However we can confirm that the first deaf person was empanelled on a jury in 2005 and was made the foreman. The first blind person to serve on a jury in New Zealand served in 2006.

81. Under the New Zealand Sign Language Act 2006, NZSL interpreters must be provided in the court system whenever required by jurors. The Government provides

funding for NZSL interpreters, and court staff are provided with detailed guidelines to ensure that they are aware of their obligations and requirements in terms of providing support and interpreters to allow deaf jurors to serve on juries if they so wish. In addition to translation services provided, most if not all courtrooms are fitted with a hearing loop which functions to enable those with hearing aids to get a "boost" if they wish to take advantage of the facility.

The exercise of judicial discretion to discharge potential jurors with disabilities

82. Under section 16 AA of the Juries Act 1981 a Judge may discharge an individual from jury service either on an application by the individual or by the Judge's own motion. The Judge has to be satisfied that the disability would render the potential juror incapable of acting effectively on a jury. "Disability" is defined in the Juries Act 1981 to include deaf or blind individuals.

83. The application is made to the Judge by court staff responsible for the administration of jury trials. The hearings are held in private to ensure that jurors' privacy is protected and individuals are not placed in embarrassing situations in front of other jurors.

84. Because these hearings are held in private, there are no details from specific cases on how judges make the decision to discharge potential jurors. Section 16AA of the Juries Act states that "the Judge may conduct the hearing and consider such evidence as he or she thinks fit", this provides the Judge with the flexibility required to determine the ability of each juror to serve on a case-by-case basis. This flexibility is necessary in light of the highly variable range of disabilities and circumstances that are considered by Judges.

Reply to the issues raised in paragraph 16 of the list of issues

85. The conclusion reached after the 2011 review of the New Zealand Sign Language Act 2006 was that no change to the Act itself was necessary. Rather, it was the implementation of the Act that was considered an issue. The review suggested that government departments providing services should:

- Produce more information in New Zealand Sign Language (NZSL);
- Ensure that their staff are trained on both how to communicate with Deaf people and engage NZSL interpreters;
- Address the shortage of NZSL interpreters.

86. Since 2013, Video Remote Interpreting (VRI) has been progressively rolled out around New Zealand in key government services. In May 2014, the Government agreed to the establishment of a NZSL Board to provide leadership, stewardship and advice on measures to promote and maintain NZSL. The Government has also agreed to establish a NZSL Fund to support the implementation of NZSL initiatives.

87. The New Zealand Sign Language Act 2006 gives deaf persons the right to use NZSL in legal proceedings. To ensure compliance with the Act Courts and tribunals arrange NZSL interpreters when they are required. The Ministry of Justice released guidelines on interpreters for staff in courts and tribunals in 2012. These guidelines advise staff on the legal status of NZSL and provide advice on sourcing qualified and experienced NZSL interpreters.

88. The government legal aid scheme funds legal representation and other legal assistance to people who would otherwise be unable to afford it. Interpreters are used when the legally aided person cannot communicate meaningfully with the lawyer due to a hearing impairment. Funding can be provided in instances where interpretation is required for out-

of-Court legal assistance, or where these services are required in Court but are not judge-directed.

Liberty and security of the person (art. 14)

Reply to the issues raised in paragraph 17 of the list of issues

Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003

89. As of April 2014, there are 116 individuals subject to the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.

Mental Health (Compulsory Assessment and Treatment) Act 1992

90. The Ministry of Health publishes statistics about the number of people subject to the Mental Health (Compulsory Assessment and Treatment) Act 1992 (MH(CAT)) each year in the Office of the Director of Mental Health's Annual Report. The 2012 report notes that an average rate per 100,000 of between six and ten people per month are subject to assessment sections of the MH(CAT) Act. An average rate of 77 per 100,000 people per month, are subject to a compulsory treatment order in the community and an average of thirteen people are subject to a compulsory inpatient treatment order per month, at month's end. Further statistics are provided in the Office of the Director of Mental Health Annual Report 2012, which is available on the Ministry of Health website at www.health.govt.nz. The Ministry intends to publish 2013 statistics later in 2014.

Reply to the issues raised in paragraph 18 of the list of issues

91. The Ministry of Health is committed to reducing the use of seclusion in mental health services in New Zealand. Seclusion should be an uncommon event and should be used only when there is an imminent risk of danger to the individual or others and where no other safe and effective alternative is possible.

92. Reducing and eliminating seclusion and restraint, including for Māori service users, is an action in the Government's plan for mental health and addictions services over the next few years: *The Mental Health and Addiction Service Development Plan 2012 – 2017 (Rising to the Challenge)*. Progress on the actions in Rising to the Challenge is being monitored by the Ministry of Health. To date, 16 out of 20 District Health Boards (DHBs) have prioritised a focus on reducing the use of seclusion and restraint, and several have already reported good results.

93. DHBs are implementing a range of initiatives to reduce and eliminate seclusion and restraint, such as staff training and culture change, the use of sensory modulation rooms, and developing expertise in alternative interventions like cognitive behavioural interventions. Some DHBs are also looking at and changing their physical spaces to create an environment that is more conducive to therapeutic interventions.

94. Te Pou (an organisation funded to support the health and disability workforces in New Zealand) is working with District Health Boards on the reduction and elimination of seclusion and restraint in New Zealand. Te Pou has developed evidence-based tools that support the reduction of restraint and seclusion, such as the Six Core Strategies checklist.

95. The Office of the Director of Mental Health monitors the use of seclusion and publishes information on its prevalence in its annual report. The monitoring shows that the use of seclusion is declining, and the latest report shows the total number of seclusion hours for patients in adult services has decreased nationally by 36 percent between 2009 and 2012.

96. New Zealand has strict controls on the use of seclusion in the health sector for all people with disabilities. The rights and safety of individuals in detention is ensured through a range of statutory and other mechanisms.

Freedom from violence and abuse (art. 16)

Reply to the issues raised in paragraph 19 of the list of issues

97. Improvements to programmes being introduced under the Domestic Violence Amendment Act 2013 will continue to ensure that protected persons with special needs, including disabled people, are provided with services in a way that supports that person to access a programme and to address their safety needs. Initiatives include:

- The new Code of Practice for the provision of domestic violence programmes will include a section about working with clients with disabilities;
- A new matching tool for use by Courts in selecting providers will include the identification of disabilities as criteria that must be taken into account when making the appropriate provider selection;
- The new programme guidelines will allow the option of access to services by telephone or other secure computer links. This may enhance access for some client groups previously excluded due to transportation barriers;
- The new programme structure is premised on a comprehensive needs assessment that allows the provider to tailor programme content to individual need. For clients with complex needs there is an option to provide a longer timeframe for the service;
- Adult protected persons programmes are generally run as group programmes but in future there will be greater flexibility to offer an individual programme or a programme comprising both group and individual sessions in order to tailor the content to the specific needs of the disabled person.

98. All Ministry of Social Development service specifications and guidelines for programmes including all domestic and anti-violence programmes, support participation by enhanced accessibility and recognising the diverse needs of all people.

Reply to the issues raised in paragraph 20 of the list of issues

99. The Government does not collect data on the number of sterilisations of women and girls with intellectual disabilities. Information is collected on sterilisation required by the Contraception, Sterilisation and Abortion Act 1977 (Section 7), but medical practitioners are not required to specify whether or not the patient has a disability.

100. Safeguards under New Zealand law already protect people from forced or involuntary sterilisation.

101. The Bill of Rights Act 1990, Section 11 specifies that everyone has the right to refuse to undergo sterilisation.

102. There may be sometimes cases where a person's disability is so severe that informed consent from the individual regarding sterilisation may not be possible. In these cases, sterilisation may be considered a medical necessity and justified by personal welfare and best interest principles.

103. In these cases where a person with a disability is aged 18 years or over, New Zealand Court authorisation must be sought before sterilisation can be performed. The Court's role is to determine if sterilisation is in the best interests of the person, if the person is not capable of making the decision. This is to ensure rights and protections for people

who lack competence to consent for themselves. Court ordered assessment and treatment is subject to strict safeguards and does not negate the need for clinicians to obtain informed consent, if possible, at all stages of assessment and treatment.

104. If the person with a disability has not attained 18 years of age and has a living parent or legal guardian, the Court does not have jurisdiction and it would therefore be the parent or legal guardian's judgement of what is in the best interests of the person with a disability that will determine whether or not a sterilisation is authorised.

Living independently and being included in the community (art. 19)

Reply to the issues raised in paragraph 21 of the list of issues

Independent Living Model

105. The Ministry of Health's New Model for supporting people with disabilities ('independent living model') aims to increase people with disabilities' choice and control over their lives and the support they receive. The independent living model involves transforming parts of the disability support system, with elements of the transformation being demonstrated in the Bay of Plenty, and as part of the Choice in Community Living (CiCL) programme.

106. The New Model is being progressed through:

- A two year demonstration of Local Area Coordination (LAC) resulting in positive stories of outcomes in planning and achieving a "good life" within the community. A developmental evaluation has supported these findings. LAC will continue in the Bay of Plenty and different arrangements for its delivery will be trialled in two further regions.
- The 'supported self-assessment' and allocation of personal budgets demonstration and evaluation continues using a newly developed Funding Allocation Tool. People with disabilities can then use their budget to purchase wider supports (Enhanced Individualised Funding), with the assistance of a host organisation, according to a set of principles in a Purchasing Guideline.
- People with disabilities in residential facilities are being supported to choose alternative community based living options – 'Choice in Community Living'. This is being demonstrated and evaluated in two regions.
- The learning and tools from these demonstrations are informing the Enabling Good Lives project (refer below) with the intention that the two pieces of work merge. These developments will expand the option of enhanced community living for people with disabilities and their families.

Enabling Good Lives

107. Enabling Good Lives (EGL) was developed by the disability sector and proposed a fundamental shift to the cross-government disability support system to give disabled people greater choice and control over their supports and their lives. It is underpinned by eight principles, which include:

- Ordinary life outcomes – disabled people are supported to live everyday lives in everyday places, like others at similar stages of life;
- Mainstream first – disabled people are supported to access mainstream services before specialist disability services;

- Easy to use – supports are simple to use and flexible.

108. Work on EGL is overseen by the Ministerial Committee for Disability Issues. Disabled people and their organisations, family and provider perspectives are represented on a national leadership group that provides advice on and support to the Enabling Good Lives work. The Joint Agency Group comprising deputy chief executives from the Ministries of Health, Education and Social Development support an integrated approach to EGL.

109. A demonstration of this approach is being implemented in Christchurch over three years between July 2013 and June 2016. The demonstration is a collaboration between disabled people, their families, providers and government agencies, including the Ministries of, Health, Education and Social Development with support from the Accident Compensation Corporation. Disabled people are involved in every level of governance for the demonstration, including attending the Ministerial Committee on Disability Issues.

110. In the first year, 52 disabled school leavers with very high needs or high needs and their families have been involved in the demonstration. Over the next year, the demonstration will be expanded to include a wider group of disabled people, including groups such as 13-18 year olds and people under 40 years who want to leave a residential facility or avoid moving into one.

111. In 2014, three years of funding was allocated for a further Enabling Good Lives demonstration in the Waikato region. It will build on the work in that region to date, which has included developing and trialling an organisational self-review tool and guidelines to help providers align their support of disabled people with the Enabling Good Lives principles. The Waikato demonstration will be co-designed in the second half of 2014 with a group of local representatives of disabled people, family and providers.

Respect for home and the family (art. 23)

Reply to the issues raised in paragraph 22 of the list of issues

112. There is no restriction on the right of a person to make an application to adopt a child because of disability (section 3 Adoption Act 1955). The court makes a decision based on the best interests of the child taking into account a report prepared by a social worker.

Education (art. 24)

Reply to the issues raised in paragraph 23 of the list of issues

113. The Ministry of Education (MOE) recognises that to improve the rate of participation in tertiary education among disabled people, Tertiary Education Organisations (TEOs) must be accessible to people with disabilities. TEOs receive equity funding through the Tertiary Education Commission, which takes into account the higher costs of supporting students with disabilities.

114. TEOs are expected to recognise the diverse needs of their communities and have mechanisms in place for meeting these needs. In 2004, *Kia Orite, Achieving Equity: The New Zealand Code of Practice for an Inclusive Tertiary Education Environment for Students with Impairments* was developed to help TEOs identify and meet the needs of students with disabilities.

115. MOE has recently updated the Tertiary Education Strategy for 2014-2018. One of the priorities for the strategy is to improve educational and employment outcomes for at-

risk young people. The strategy recognises that young people with disabilities have particular barriers to participating in tertiary education, and that the Government, TEOs , and schools need to work together to improve transitions from school to tertiary education, and from education to employment.

116. Improving the transition between secondary school and tertiary education has been identified as a way of increasing tertiary participation among people with disabilities. In 2012, MOE developed the National Transition Guidelines for specialist educators, schools, and parents. The guide provides best-practice principles and strategies for a student with special education needs successfully transitioning into tertiary education and other settings. As part of the work around the guidelines, there are also 16 District Transition Advisors based in MOE regional offices, who support schools in helping students plan for transitions, which typically begins no later than age 14.

117. In June 2014, MOE anticipates releasing *He kōkiri ake noa: Supporting learning for all*, a resource that provides evidence-based ways that Youth Guarantee providers can be more responsive to young people with additional learning needs. The Youth Guarantee initiative aims to provide learners with more ways to achieve NCEA Level 2, by provided contextualised education options, following the Vocational Pathways, as well as aiding transitions to further education or employment.

118. There are two future initiatives that the Ministry of Education is leading under the Disability Action Plan 2014-2018. One is aimed at increasing the education achievement of disabled children and adults by building the capability of inclusive education to improve the delivery of services in line with the Convention The other seeks to increase the number of people with disabilities transitioning from school to tertiary education, and from education to employment.

119. The participation rate for students with disabilities in tertiary education was 5.4percent in 2012, compared to 4.8 percent in 2008. Note the rate of participation in tertiary education by people with disabilities is an estimate only, and may not reflect the full rate of participation. Participation rates are taken from enrolments in TEOs. Information about disabilities is self-reported, and people with disabilities are not required to identify as such.

Reply to the issues raised in paragraph 24 of the list of issues

120. Schools are responsible for creating safe and positive environments for all students and need to have policies and procedures in place to respond to bullying. A number of programmes and approaches are available to schools in relation to preventing and responding to bullying. Schools are responsible for selecting and implementing programmes that suit their school community.

121. The Secretary for Education convened a cross-sector Bullying Prevention Advisory Group (BPAG) in 2013 with the aim of supporting schools to create safe and positive environments to deter bullying. BPAG has produced *Bullying prevention and response: A guide for schools* to help schools prevent bullying and to provide practical advice on what to do when bullying does occur.

122. The guide offers information about understanding bullying behaviour and its effects, good practice, and sample school policies and procedures for schools. BPAG acknowledges that students with disabilities are at greater risk of being involved in bullying. The guide has been developed to encourage schools to take an inclusive whole-school approach to creating safe environments, in which bullying is less likely to occur. This is consistent with MOEs *Success for All: Every School, Every Child* work programme, which is aimed at providing inclusive school environments that benefit all students, including those with disabilities.

123. BPAG has identified areas where further action is needed to continue to support schools and their wider school community to reduce bullying. The guide includes information about addressing instances of cyberbullying, which has become more prevalent in recent years. The guide has been distributed to all schools across New Zealand and has received positive feedback from teachers and school leaders. BPAG is currently considering a range of further actions to better support schools to reduce bullying behaviour, and ensure the information is updated to remain relevant in future years.

124. Te Punanga Haumaru was set up to help communities and whanau create safe and nurturing environments for children and young people (0-19 years). In launching the initiative in 2012 the Minister for Disability Issues talked about the meaning of Te Punanga Haumaru as "a haven to rest and restore – a place of safety, where we can be warm and secure." Te Punanga Haumaru helps families and communities to target the wider factors that influence behaviour in a way that complements existing anti-bullying programmes in schools. Te Punanga Haumaru aims to:

- Support whanau and community led action that encourages positive behaviour, and reduces bullying of children and young people;
- Build ownership and commitment at a local level to changing attitudes and behaviours in our communities;
- Increase knowledge and understanding of the impact of bullying;
- Provide tools and strategies to support effective community action.

Reply to the issues raised in paragraph 25 of the list of issues

125. It is a Government priority to ensure that all children are able to access early childhood education. One of the Better Public Service goals is that by 2016, 98 percent of all students starting primary school will have participated in quality early childhood education.

126. Guidance on the Education (Early Childhood Services) Regulations 2008 General Curriculum Standard emphasises that early childhood education services actively engage children with special education needs in learning alongside other children in the service.

Early Childhood Education Funding

127. The Ministry pays licensed Early Childhood Education (ECE) services a funding subsidy for up to 30 hours per child place per week. The subsidy is intended to reduce fees for families and make ECE more accessible for all. The funding subsidy includes 20 Hours of free ECE per week for 3-5 year olds. ECE services cannot charge fees for hours claimed as 20 hours ECE. 20 Hours ECE is a higher rate of funding intended to provide families of 3-5 year olds access to 20 hours of ECE per week without having to pay fees.

128. The Ministry also pays Equity Funding to eligible ECE services in priority communities to help improve access and reduce the barriers to participation faced by groups under-represented in ECE. There are four components for allocating equity funding to an ECE service, two of which relate to special education. Component B considers ECE services with a significant number of children with disabilities and/or children from non-English speaking backgrounds. Component C considers ECE services that have a language and culture other than English, including New Zealand Sign Language.

129. In the 2012/13 year, equity funding totalling $28.5m was provided to 1806 ECE services, or 41 percent of all licensed ECE services. Of the 1806 services, 79percent received funding under component B and 34 percent under component C. ECE services can receive funding under more than one component.

Early Intervention support

130. The Ministry of Education currently provides support for 13,000 young children with disabilities and learning needs, their families and whānau, and ECE services each year. Early Intervention services are available for children from birth until school entry. The Ministry has targets to provide early intervention services as early as possible, with minimal wait-time to accept referrals.

131. Support is provided by a range of specialists, along with some paraprofessional support in early childhood education settings. Early Intervention uses a family centred approach, working closely with families and being led by their priorities. Early Intervention also works closely with educators in ECE settings. There is also a need to work closely with welfare and health agencies. Most children with the identified disabilities receive services from the Ministry of Health's Child Development Teams for the first 2-3 years and then transition to education.

Health (art. 25)

Reply to the issues raised in paragraph 26 of the list of issues

132. New Zealand recognises that people need to be able to access public health care, at the right place and at the right time. The principles that underpin New Zealand's public health system are to provide universal and equitable access to services based on clinical need and ability to benefit within available resources.

133. New Zealand is cognisant of the need to reduce barriers to health care, and invests in initiatives that do this, for example the Health Passport Scheme to assist nursing and medical staff to understand the care and support needs of people with disabilities (also see Issue 9 and 27).

134. Specifically, the Ministry of Health recognises that improving the health of people with intellectual disabilities is a significant, complex and multi-facetted issue that will require a long-term approach, and a coordinated effort across the whole health system. The Ministry of Health is currently developing a long-term plan to improve the health of persons with intellectual disabilities, and has confirmed its commitment to taking this work forward with its inclusion in the New Zealand Government's cross-sector Disability Action Plan 2014/15. As part of this work the Ministry of Health will look at service journeys; looking at where people, including women and girls with intellectual disability, come into contact with health services (for example sexual and reproductive health services), where this works and does not work and what can be improved.

135. The Ministry of Health will engage with health professionals, individuals with intellectual disabilities and those in the intellectual disability sector to develop a strategic approach to developing better physical and mental health outcomes for people with intellectual disability. The Ministry of Health's Chief Medical Officer and Chief Nurse are engaged in this work and have met with groups of people with disabilities and their carers to discuss barriers faced when accessing health care services.

Reply to the issues raised in paragraph 27 of the list of issues

136. DHBs were established under the New Zealand Public Health and Disability Act 2000 to plan and deliver health services to local populations. The legislation sets out explicit expectations for DHBs, including reducing disparities by improving the health outcomes of Māori and diverse population groups

137. As part of its accountability framework, the Ministry of Health requires DHBs to complete annual plans. One of these, the Māori Health Plan, sets out how DHBs are going

to achieve equitable health outcomes in a range of areas for their Māori population compared to the total population.

138. The Ministry also provides a strategic framework for the health sector to improve Māori health and disability outcomes. *He Korowai Oranga*, which was first released in 2002, expands on the principles of both the New Zealand Health Strategy and the New Zealand Disability Strategy by providing more detail on how Māori health objectives will be achieved. At the base of the strategy are four pathways for action for the health and disability sector. One of these – pathway three – aims to ensure that Māori receive timely, high-quality, effective and culturally appropriate health and disability services to reduce inequalities.

139. *He Korowai Oranga* is now over a decade old and the Ministry of Health is working to refresh and update the strategy.

140. As part of *Whāia Te Ao Mārama: Māori Disability Action Plan 2012 to 2017*, a stocktake and gap analysis is being conducted regarding services to Māori disabled. Regional meetings with Māori service providers will be held from July to December 2014 to gather information on current issues and to assist further service planning. A cultural assessment tool is being developed for implementation within the National Intellectual Disabled Care Agency. Cultural diversity and competency training is being accessed by the non-Māori workforce to enhance their service to Māori clients and whānau/families. Further, the New Model (also refer to Issue 21) has provided more choices and autonomy for disabled Māori to determine how their individual allocated budgets are utilised and which service providers are engaged to address their needs.

141. The *Ala Mo'ui* plan sets out the priority outcomes and actions that will contribute towards achieving better health outcomes for Pacific people, families and communities. It can be used as a tool for planning and prioritising actions and developing new and innovative methods of delivering results. This plan was for up to and including 2014, and so is currently being refreshed.

142. The *Faiva Ora National Pasifika Disability Plan 2010-2013*, outlines the Government's priority focus areas for Pacific disability. Specifically if it looks at improving the training and career path for Pacific disability workers, ensuring support services meet the needs of Pacific disabled people and their families, and increasing the number of services delivered locally in the community. *Faiva Ora* is currently being reviewed.

Work and employment (art. 27)

Reply to the issues raised in paragraph 28 of the list of issues

Disability Action Plan 2014-2018

143. A cross government shared result area under the Disability Action Plan for 2014-2018 is to increase employment and economic opportunities for people with disabilities. The four prioritised areas for government agencies to work with DPOs and other agencies to progress action are:

- Increase the educational achievement of disabled children and adults;
- Increase the number of disabled people who transition from school and from tertiary employment into employment;
- Increase the number of disabled people, including long-term unemployed disabled people, in paid employment and self-employment on an equal basis with others;

- Increase the number of employers who are confident in employing disabled people, with the public sector taking a lead.

Welfare reforms

144. The Welfare Reform programme was the biggest change to NZ's welfare system in 50 years. The changes were complex and transformed nearly every part of the Ministry of Social Development and the way the Ministry works with clients. In July 2013, all benefit types changed, new policies and a new service delivery model were implemented and a new Investment Approach methodology was introduced which involves focusing resources on beneficiary groups at the highest risk of staying on benefit in the long-term without this assistance.

145. The reforms implemented were based on the recommendations of the Welfare Working Group, which was established by the Government in 2010 to examine long-term welfare dependence.

146. As part of the Welfare Reform changes in July 2013, MSD introduced a completely new way of working with clients with health conditions and disabilities. These changes comprised:

- New work-focused case management to work intensively with people with health conditions and disabilities. In the year to March 2014, 1,781 of this group were supported off benefit and into work;
- New assessment tools, including a self-assessment, structured interviews, and in a small number of cases an independent assessment of people's skills and what support they needed to work;
- A revised medical certificate that focuses on the impact of the incapacity on the person's ability to work, and what support is required;
- A new wraparound employment service for up to 1,000 people with mental health conditions is being trialled.

147. A longer term work programme that builds on the first phase of the Health and Disability Reforms is being developed with disabled people's organisations and other interested stakeholders. It will be implemented in a phased approach over five years from July 2014. The high level objectives of the long term work programme are to:

- Embed an individualised approach to supporting people to find and stay in work;
- Improve employment supports and services for people with a health condition or a disability;
- Provide accessible information, forms and tools;
- Work with employers so they can be more confident employing disabled people and people with a health condition;
- Change the way Work and Income (a service line of the Ministry dealing with benefit payments and support to work) works with health professionals;
- Build the capability of Work and Income staff to support disabled people and people with a health condition to find and stay in work;
- Improve the alignment of financial incentives and disincentives to increase employment outcomes for disabled people and people with a health condition.

Mainstream programme

148. Some policy changes have been made to the Mainstream programme since it as transferred to MSD in 2008:

- From July 2011 the wage subsidy level was increased for the second year of a placement from 50 per cent to 80 per cent of the salary/wage (the first year is 100percent);
- From July 2012 the programme was expanded to include eligible employers from the private sector and wider state sector (rather than just the core public sector), to target it towards youth and to introduce internships for tertiary students.

Think Differently

149. From July 2010 to June 2014 the Think Differently social change campaign has funded six projects, totalling $74,440, specifically designed to increase employment levels for people with disabilities. Some of these projects have included working in partnership with employers to increase employment opportunities, developing resources for employers profiling successful and positive examples of disabled people in competitive employment and supporting and promoting self-employment initiatives.

150. A number of other projects and partnerships have focused on building the capacity of disabled people, part of which may include preparing a disabled person for employment.

151. In addition to this, a significant project is being developed with the Disability Employment Forum, a group made up of Disabled People's Organisations and organisations that place and support disabled people into open employment. This project will be focused on developing disability-confident work places. The funding will be in the range of $90,000 - $100,000 and is expected to take place over the 2014/2015 financial year.

Participation in political and public life (art. 29)

Reply to the issues raised in paragraph 29 of the list of issues

152. Persons under compulsory mental health treatment or with an intellectual disability are not disqualified as a category unless they also fall into one of the narrow categories of persons specified in section 80(1)(c) of the Electoral Act 1993 all of which relate to the person's criminal justice classification rather than their disability per se.

153. A person who is detained in a hospital under the Mental Health (Compulsory Assessment and Treatment) Act 1992 or in a secure facility under the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003, is only disqualified from enrolling and voting if one of the following applies:

- The person has been found by a Court or a Judge to be unfit to stand trial within the meaning of the Criminal Procedure (Mentally Impaired Persons) Act 2003, or has been acquitted on account of his or her insanity, and is being detained under an order or direction and has been so detained for a period exceeding three years.
- The person has been found by a Court, on conviction of any offence, to be mentally impaired, and is detained under an order and has been so detained for a period exceeding three years.
- The person is subject to, and has for a period exceeding three years been subject to, a compulsory treatment order made following an application under section 45(2) of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or

compulsory care order made following an application under section 29(1) of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.

- The person is detained under section 46 of the Mental Health (Compulsory Assessment and Treatment) Act 1992, and is a person to who would otherwise be being detained under a sentence of imprisonment.

154. The first of these relate to people charged with criminal offences but deemed unfit to stand trial or acquitted because of their mental impairment. The other provisions relate to a person who has been convicted but has a mental disorder or intellectual disability and is being held not in a prison but in another facility to receive treatment and rehabilitation.

Participation in cultural life, recreation, leisure and sport (art. 30)

Reply to the issues raised in paragraph 30 of the list of issues

155. Funding decisions in relation to television are made on an arms-length basis by NZ On Air, an independent funding agency. Nonetheless, the Government is keen to see further improvements in captioning and audio description over time, in both broadcast and other media as resources permit. Audio description has recently been introduced. Funding for captioning has doubled in the last decade: around 250 hours a week is now captioned, compared to around 70 hours a week a decade ago. The recent restructuring of the captioning provider business will lead to efficiencies that, in turn, will increase captioning output even further.

156. Captioned movie screenings began in New Zealand in 2003, with three cinemas offering an average of two captioned sessions per week. By May 2014, an average of 494 captioned screenings, were available each week from an average of 41 cinemas.

Reply to the issues raised in paragraph 31 of the list of issues

157. New Zealand has voiced its support for the goals of the Marrakesh Treaty throughout its development in the World Intellectual Property Organization. New Zealand already has a national law exception to copyright for visually impaired persons, however, that exception is silent on the issue of cross border transfers of works.

158. Ministry of Business Innovation and Employment officials have undertaken initial consultation on the possibility of acceding to the Marrakesh Treaty with key stakeholders, including advocacy groups, rights holders' organisations and library organisations. Ministry of Business, Innovation and Employment officials will continue undertaking the necessary preparatory work to enable the Government to take a decision on accession to the Marrakesh Treaty.